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Human rights situations that require the Council's attention

Written statement* submitted by the International Association of Democratic Lawyers (IADL), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Statement calling for the end of the political persecution of WikiLeaks and Julian Assange

US attempts to criminally prosecute WikiLeaks and Julian Assange have been underway for over five years, most recently confirmed by the US Department of Justice as of April 2015. The investigative arsenal employed by the United States has included the surveillance of WikiLeaks staff, affiliates, and supporters, as well as extrajudicial financial sanctions. It was revealed in December 2014 that the US government is engaged in the complete collection of all location information, e-mail contents, contacts, and social media accounts of several WikiLeaks affiliates and staff.

The International Association of Democratic Lawyers (IADL) joins over fifty free speech and human rights organizations worldwide in recognizing that the prosecution of WikiLeaks on account of its publications threatens to "criminalize the newsgathering process and put all editors and journalists at risk of prosecution."

The attempts to censor WikiLeaks and deter association with the organization have a serious chilling effect on the very rights the Human Rights Council is mandated to protect. The right to publish is universally guaranteed by Article 19 of both the UN Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), which guarantee the "freedom ... to seek, receive and impart information and ideas through any media and regardless of frontiers." Article 22 of the ICCPR guarantees the "right to freedom of association." These rights are required to realize numerous other mandatory rights, such as the right to vote, the right to take part in public affairs, and the right to self-determination. Indeed, the UN Human Rights Committee in its General Comment 25 recognizes it as "essential" for democratic society that individuals have the freedom "to criticize and oppose, to publish political material" and to be able to do so "without censorship or restraint."

The current administration of the United States has prosecuted more whistleblowers for disclosing information to the press than all US presidents combined. The United States employs what has been criticized as a "two-tiered justice system" for leaks. Recently, US General David Petraeus was leniently exempted from the heavy prosecution systematically faced by whistleblowers, after he leaked classified information surrounding the war in Afghanistan to his book publisher. Meanwhile, other whistleblowers live in prison or in exile with no imminent hope of freedom.

In May 2015 a US federal appeals court held unlawful the phone record collection program revealed by Edward Snowden; this obviates the need for leniency for individuals who expose government misconduct that, when brought to light, is found by courts to violate national and international law. Instead, whistleblowers and those associated with them are prosecuted as spies and computer hackers. The prosecution of WikiLeaks includes conspiracy, espionage, and computer crimes. This has serious implications for digital freedoms as well. The Organization of American States Special Rapporteur for Freedom of Expression warns that the "aggravated" misclassification of activities as computer crimes threatens fundamental online freedoms and could lead to "criminalization of the use of the Internet."

WikiLeaks engages in work that is necessary for the Human Rights Council to protect. WikiLeaks material regularly serves evidentiary purposes in domestic and international tribunals worldwide, and has directly contributed to curbing impunity in human rights abuses. The publications are featured nearly every day in media around the world and contribute to a public understanding of government operations, and therefore enhanced democratic engagement. The crackdown against WikiLeaks, Julian Assange and other WikiLeaks journalists not only amounts to political persecution, but also has a serious chilling effect on members of the media.

In the light of the above, IADL urges the United States:
- to end its attempts to criminally prosecute WikiLeaks and Julian Assange, which threaten fundamental and universal press freedoms;
- to cease its surveillance of the staff, affiliates, and supporters of WikiLeaks, which violate their rights to publication and free association; and
- to end its harsh, disproportionate, and selective prosecution of whistleblowers and stop classifying them as engaging in espionage or computer crimes.

IADL urges as well the government of Sweden and the United Kingdom:
- to recognized the political asylum granted by Ecuador to Mr. Assange; and

- to take all necessary measures to put an end to the indefinite confinement of Mr. Assange in the Ecuadorian embassy in London, in a manner that is fully consistent with his status as a refugee.

Finally IADL urges the government of Sweden to move forward with the preliminary investigation against Mr. Assange. In the case this were to result in a decision to charge him, IADL urges Sweden to guarantee Mr. Assange a fair trial and an effective remedy for the nearly five years of detention without charge he has been subjected to in contravention of the ICCPR and Article 5 of the European Convention on Human Rights.